

ESTTA Tracking number: **ESTTA418706**

Filing date: **07/08/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Castro Cheese Company, Inc.
Granted to Date of previous extension	07/10/2011
Address	4006 CAMPBELL ROAD Houston, TX 77080 UNITED STATES

Attorney information	Alicia Morris Groos Fulbright & Jaworski L.L.P. 98 San Jacinto Blvd. Suite 1100 Austin, TX 78701 UNITED STATES aotrademark@fulbright.com, agroos@fulbright.com, kpfertner@fulbright.com Phone:512.474.5201
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Applicant Information

Application No	85081715	Publication date	01/11/2011
Opposition Filing Date	07/08/2011	Opposition Period Ends	07/10/2011
Applicant	Richard Cooper 6505 SW 104th St. Pinecrest, FL 33156 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. All goods and services in the class are opposed, namely: Bar and restaurant services
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1972098	Application Date	08/11/1993
Registration Date	05/07/1996	Foreign Priority Date	NONE
Word Mark	LA VAQUITA		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 029. First use: First Use: 1977/06/30 First Use In Commerce: 1992/08/05 meats and processed food, namely cheese

U.S. Registration No.	2180079	Application Date	01/28/1997
Registration Date	08/11/1998	Foreign Priority Date	NONE
Word Mark	"LA VAQUITA"		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1978/07/07 First Use In Commerce: 1984/00/00 meats and processed food, namely, cheese		

Attachments	75232346#TMSN.gif (1 page)(bytes) Castro_opp.pdf (14 pages)(423468 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Alicia Morris Groos/
Name	Alicia Morris Groos
Date	07/08/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 85/081,715
by Richard Cooper for the Mark: MI VAQUITA
Filed on July 9, 2010, Published in the *Official Gazette* on January 11, 2011

CASTRO CHEESE COMPANY, INC.
Opposer,

v.

Opposition No. _____

RICHARD COOPER
Applicant.

NOTICE OF OPPOSITION

Castro Cheese Company, Inc. (hereafter “Opposer”), a Delaware corporation having a principal place of business at 4006 Campbell Road, Houston, Texas, 77080, believes that it will be damaged by registration of the mark shown in Application Serial No. 85/081,715 and, therefore, opposes registration of this mark under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. Section 1063.


As the grounds of Opposition, Opposer alleges that:

1. Application Serial No. 85/081,715 for the alleged mark “MI VAQUITA” was filed by Richard Cooper (hereafter “Applicant”) on July 9, 2010. The application was filed on the basis of an intention to use the alleged mark “MI VAQUITA” for “bar and restaurant services” in International Class 43. The mark was published for opposition in the Trademark Official Gazette on January 11, 2011.

2. Opposer has been engaged in the manufacture and sale of Hispanic cheese and dairy products for more than thirty years. Since the mid-1970s, Opposer has been using the

distinctive mark LA VAQUITA (the “LA VAQUITA Mark”) in connection with these products. In addition, LA VAQUITA cheese has been used in connection with restaurant menu items.

3. As a result of Opposer’s long and continuous use of the LA VAQUITA Mark, Opposer has developed significant trademark rights in the LA VAQUITA Mark. As part of Opposer’s efforts to maintain and protect its trademark rights, it has obtained the following registrations for the mark (the “LA VAQUITA Registrations”) in the United States Patent and Trademark Office, the same being valid and subsisting:

REG. NO.	MARK	GOODS/SERVICES	REG. DATE
1972098	LA VAQUITA	Class 29: meats and processed food, namely cheese	May 7, 1996
2180079	LA VAQUITA & Design “La Vaquita” 	Class 29: meats and processed food, namely, cheese	August 11, 1998

Both of these registrations are valid and incontestable. Copies of the registrations and printouts from the USPTO TARR database for these registrations are attached hereto as Opposer’s Exhibit A.

4. On information and belief, the services for which Applicant seeks a registration of its alleged trademark “MI VAQUITA” are highly related to the goods in connection with which Opposer has used its LA VAQUITA Mark and are sold to substantially the same class of customers through the same channels of trade.

5. Priority is not an issue. Opposer has used the LA VAQUITA Mark prior to Applicant’s application date of July 9, 2010 or any date of first use the Applicant can claim.

6. Opposer filed its applications for the LA VAQUITA Registrations prior to Applicant's filing date of the opposed application.

7. Opposer's LA VAQUITA Registrations issued prior to Applicant's filing date of the opposed application.

8. Use by Applicant of the alleged trademark "MI VAQUITA" is without Opposer's consent or permission.

9. Use by Applicant of the alleged trademark "MI VAQUITA" is likely to cause confusion with Opposer's LA VAQUITA Mark, so that when Applicant's alleged mark is used for the services recited in the application, it so nearly resembles Opposer's LA VAQUITA mark as to be likely to be confused therewith and mistaken therefore.

10. If Applicant is permitted to use and register its alleged "MI VAQUITA" mark for the services recited in the application herein opposed, confusion in trade would be caused, resulting in damage and injury to the Opposer, and would result by reason of the similarity between Applicant's alleged "MI VAQUITA" mark and Opposer's LA VAQUITA Mark. Persons familiar with Opposer's LA VAQUITA Mark would be likely to assume a connection between Applicant's services, and the goods offered by Opposer.

11. If Applicant is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its alleged mark. Such registration would be a source of damage and injury to Opposer.

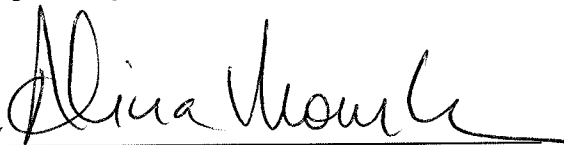
WHEREFORE, Opposer prays that Application Serial No. 85/081,715 be rejected, and that registration of the mark therein be refused and that the opposition be sustained.

A filing fee in the amount of \$300.00 is being paid electronically via credit card with this Notice of Opposition. The Commissioner is authorized to draw on the Deposit Account of

Fulbright & Jaworski L.L.P., Account No. 50-1212 if the online credit card payment is insufficient.

Dated: July 8, 2011.

Respectfully submitted,

By 


Alicia Morris Groos
Tracy S. DeMarco
FULBRIGHT & JAWORSKI L.L.P.
98 San Jacinto Boulevard, Suite 1100
Austin, TX 78701-4255
(512) 474-5201
(512) 536-4598 (FAX)

ATTORNEYS FOR OPPOSER
CASTRO CHEESE COMPANY, INC.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the NOTICE OF OPPOSITION has been served on Applicant via First Class Mail to counsel for Applicant at the correspondence address of record indicated below, on this the 8th day of July 2011.

Leslie J. Lott
Ury Fischer
LOTT & FRIEDLAND, P.A.
PO BOX 141098
CORAL GABLES, FL 33114-1098



Attorney for Opposer

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-07-08 12:46:27 ET

Serial Number: 74423351 Assignment Information Trademark Document Retrieval

Registration Number: 1972098

Mark (words only): LA VAQUITA

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2006-08-10

Filing Date: 1993-08-11

Transformed into a National Application: No

Registration Date: 1996-05-07

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-06-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CASTRO CHEESE COMPANY, INC.

Address:

CASTRO CHEESE COMPANY, INC.
4006 CAMPBELL ROAD
HOUSTON, TX 77080
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 029

Class Status: Active

meats and processed food, namely cheese

Basis: 1(a)

First Use Date: 1977-06-30

First Use in Commerce Date: 1992-08-05

ADDITIONAL INFORMATION

Translation: The English translation of "LA VAQUITA" is "the little cow".

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-06-18 - TEAS Change Of Correspondence Received

2009-11-04 - Assignment Of Ownership Not Updated Automatically

2009-10-28 - Assignment Of Ownership Not Updated Automatically

2007-09-19 - Assignment Of Ownership Not Updated Automatically

2007-09-12 - Automatic Update Of Assignment Of Ownership

2007-06-13 - Case File In TICS

2006-08-10 - First renewal 10 year

2006-08-10 - Section 8 (10-year) accepted/ Section 9 granted

2006-08-09 - Assigned To Paralegal

2006-05-08 - TEAS Section 8 & 9 Received

2002-03-14 - Section 8 (6-year) accepted & Section 15 acknowledged

2002-01-11 - Section 8 (6-year) and Section 15 Filed
1996-05-07 - Registered - Principal Register
1996-02-13 - Published for opposition
1996-01-16 - Notice of publication
1995-12-12 - Approved for Pub - Principal Register (Initial exam)
1995-12-12 - Assigned To Examiner
1995-10-08 - Assigned To Examiner
1995-05-02 - Letter of suspension mailed
1994-10-11 - Letter of suspension mailed
1994-08-11 - Communication received from applicant
1994-02-07 - Non-final action mailed
1993-12-01 - Assigned To Examiner
1993-11-29 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

CHRISTOPHER BENSON

Correspondent

CHRISTOPHER BENSON

Fulbright & Jaworski L.L.P.

98 San Jacinto Blvd., Suite 1100

Austin TX 78701

Phone Number: 512.474.5201

Fax Number: 512.536.4598

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 1,972,098

United States Patent and Trademark Office Registered May 7, 1996

**TRADEMARK
PRINCIPAL REGISTER**

LA VAQUITA

CASTRO CHEESE COMPANY, INC. (TEXAS
CORPORATION)
4010 CAMPBELL ROAD
HOUSTON, TX 77080

FIRST USE 6-30-1977; IN COMMERCE
8-5-1992.
THE ENGLISH TRANSLATION OF "LA VA-
QUITA" IS "THE LITTLE COW".

FOR: MEATS AND PROCESSED FOOD,
NAMELY CHEESE, IN CLASS 29 (U.S. CL. 46).

SER. NO. 74-423,351, FILED 8-11-1993.

ROBERT J. CROWE, EXAMINING ATTORNEY

**Thank you for your request. Here are the latest results from the TARR web server.
This page was generated by the TARR system on 2011-07-08 12:47:51 ET**

Serial Number: 75232346 Assignment Information

Trademark Document Retrieval

Registration Number: 2180079

Mark

"La Vaquita"



(words only): "LA VAQUITA"

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2007-12-08

Filing Date: 1997-01-28

Transformed into a National Application: No

Registration Date: 1998-08-11

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-12-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CASTRO CHEESE COMPANY, INC.

Address:

CASTRO CHEESE COMPANY, INC.

4006 CAMPBELL ROAD

HOUSTON, TX 77080

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 029

Class Status: Active

meats and processed food, namely, cheese

Basis: 1(a)

First Use Date: 1978-07-07

First Use in Commerce Date: 1984-00-00

ADDITIONAL INFORMATION

Translation: The English translation for the mark "LA VAQUITA" is "the little cow".

Design Search Code(s):

03.07.01 - Cattle; Oxen, cows, calves, bulls; Steers

03.07.03 - Heads of oxen, cows, calves, bulls

Prior Registration Number(s):

1972098

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

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2004-03-28 - Section 8 (6-year) accepted & Section 15 acknowledged
2004-02-09 - Section 8 (6-year) and Section 15 Filed
1998-08-11 - Registered - Principal Register
1998-05-19 - Published for opposition
1998-04-17 - Notice of publication
1998-03-16 - Approved for Pub - Principal Register (Initial exam)
1998-01-22 - Communication received from applicant
1997-07-30 - Non-final action mailed
1997-07-22 - Assigned To Examiner
1997-07-18 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

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Austin TX 78701
Phone Number: 512.474.5201
Fax Number: 512.536.4598

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 2,180,079

United States Patent and Trademark Office

Registered Aug. 11, 1998

TRADEMARK
PRINCIPAL REGISTER

"La Vaquita"



CASTRO CHEESE COMPANY, INC. (TEXAS
CORPORATION)
4022 CAMPBELL ROAD
HOUSTON, TX 77080

FOR: MEATS AND PROCESSED FOOD,
NAMELY, CHEESE, IN CLASS 29 (U.S. CL. 46).
FIRST USE 7-7-1978; IN COMMERCE
0-0-1984.

OWNER OF U.S. REG. NO. 1,972,098.
THE ENGLISH TRANSLATION FOR THE
MARK "LA VAQUITA" IS "THE LITTLE
COW".

SER. NO. 75-232,346, FILED 1-28-1997.

GEOFFREY FOSDICK, EXAMINING ATTOR-
NEY